

Notice of Allowability

Application No.

09/646,110

Examiner

Hector M Reyes

Applicant(s)

DYCK ET AL.

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

☒ This communication is responsive to 12/08/04.

☒ The allowed claim(s) is/are 1-16 and 32-35; renumbered as 1-19.

☐ The drawings filed on _____ are accepted by the Examiner.

☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All b) ☐ Some* c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

☒ Notice of References Cited (PTO-892)

☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____

☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application (PTO-152)

6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____

7. ☐ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____

DETAILED ACTION

Status of the Claims

Claims 1-7, 11-15, 32 and 35 have been amended. Claims 17-31 have been cancelled though out prosecution. Currently claims 1-16 and 32-35 are under Examination. The Examiner has re-numbered the said claims as claims 1-19.

Allowance

The following is an examiner's statement of reasons for allowance: Applicants claim:

- In claims 1-10, a series of enantiomers as described in the said claims;
- In claims 11-16, compositions comprising the instant claimed compounds and
- In claims 17-19, as renumbered method of treating particular diseases comprising the instant claimed compounds.

No prior art disclosing or suggesting the instant invention was found. The closest art was found in:

- Morris-Sherwood et al, US patent 4548726 (1985) or
- Dudzinski et al, US patent 3991208 (1976) or
- Tien et al, JACS, 1955, vol. 77 pages 6696-6698.

Morris-Sherwood discloses 2-methylheptyl aminopropionic acid as an amphoteric surfactant, see column 1, lines 29-35. Morris-Sherwood also discloses compositions comprising the said derivatives, see column 1, lines 40-67 and column II, lines 1-26 and examples given.

Similarly, Dudzinski discloses a series of amphoteric surface-active substance, which are derivatives of propionic acid having an amine derivative ant the third position of the said acid or

Art Unit: 1625

its corresponding salt, see for instance, column 1, lines 18-34. Dudzinski also discloses compositions comprising the said compounds, see for instance column 3, lines 5-13 and examples, on the other hand, Tien discloses the preparation of the hydrochlorides of glycine N-hexyl, see page 6697.

The cited references however do not disclose or suggest compounds and/ or particular enantiomers embraced in the instant claims its compositions or method of using the same.

CONCLUSION

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee.

Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

All post-Allowance Correspondence concerning this Application must be mailed to:

**BOX ISSUE FEE
COMMISSIONER FOR PATENTS
WASHINGTON, DC 20231**

Or you can fax them to the Office of Patent Publications at 703-308-5083, in order to expedite the handling of such correspondence as amendments under 37 CFR 1.312; information disclosure statements, and formal drawings. Sending Post-Allowance papers to Technology Center 1600 will only cause delays in matching papers with the case.

Application/Control Number: 09/646,110

Page 4

Art Unit: 1625

For information concerning status of correspondence sent after receipt of the Notice of

Allowance, please contact the Correspondence Branch at (703) 305-8027.

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Reg. # P-5484

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December 8, 2004

Ms. Rita Desai
Primary Examiner

RDesai
12/8/04